9971

G. R. S. III—1] 1919.

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 140 19

FILE HEADING.

Delay in the disposal of Criminal Case no. 34 of 1917-18 on the file of the Asst Commissioner & 1st Class Magistrate, Maddagiri Sub-division

From The Registrar, Chief Court of Mysore.

No. 569 Cr. Dated 22nd Dec 19 Received on 29-12-19

Diary No. 9971	Enclos. 1	Spare Copies. Nil	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards a copy of judgment in Criminal Appeal no 40 of [illegible] on the file of the Chief Court containing the Judge's observations in the matter of the delay in the disposal of the Criminal Case during its original proceedings in the Court of the Asst Commissioner & Sub-divisional Magistrate, Maddagiri Sub-division.

NOTES AND ORDERS.

(1) Kind reference is invited to the last paragraph of the Judgment.

(2) Submitted for orders.

5/1/1920 II Member.

3291/ 12-1-20

(3) D.M. 12/1

(4) The records of this case may be called for.

(5) Draft D.M. 13/1 15/1

NOTES—First Sheet.

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File No. of 191 .

Serial No.

(6) Submitted with a draft as per order above.

(7) Make entries and

D. M.

To

2 The Registrar, Chief Court.

No. G. 17979 dt 5th February 1920

Requests to send the records of the case

From,

3 The Registrar, Chief Court of Mysore

No 682/Cr. A. Cir/Rec & 7/5th Feb/1920 recd on 17-2-1920

Forwards the records in Criminal Appeal No 48 of 1919-20 on the file of the Chief Court for reference & return.

(8) Submitted with reference to paragraph (4) above.

The records relating to the Asst Cmr Nagle's Court seem also necessary. If appd they will be called for

(9) The records are sent as ordered

D. M.

II Member -

4303 21-2-20

(10) When it is noted it was not [illegible] Chief Court record, the records of the case in the Asst Comrs' Court. This may be called for.

20/2

(11) Drafts

D. M.

25/2

NOTE—Contn. sheet

1765 · 1168/21

G. R. S. III-2]

General and Revenue Secretariat. | Ch File No. 140 of 1919.

Serial No.

12) Submitted with a draft as per order above

KR
Asst 2/2/1920
28/2

13) Issue
D. M.
28/3

4 To

The Registrar, Chief Court.

No. G. 2. 1240 dy 13th March 19.

Requests to forward the records of the case cr. no. 34 of 1917-18 on the file of the 1st class Magistrate, Maddagiri Sub-Division.

Sir A
2/3/20

5 Sir,

The Registrar, Chief Court of Mysore no 827/cr-R of 23/2/920 recd on 26/2/920 Forwards the records in Criminal Case no 34 of 1917-18 on the file of the 1st. class Magistrate, Maddagiri Sub Division for reference & return.

14) Submitted for orders with reference to para (10) above

KR
27/2/920
28/2/20

D. M. 6/4

III Member.

5512
7/4/20

15) The Asst Secretary will make a report each of the appeals posted to the Hon'ble Mysore Members concerned.

Ch
4/4.

NOTE—Contn. sheet.

(4)

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General and Revenue Secretariat. | File No. 40 of 1919.

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15) In this case, the Charge sheet was presented by the Police on 9.11.1917, and the case was posted to 17-12-17 & then to 28-12-17 owing to the absence of the accused. On 28-12-17 the Complainant was absent, being ill, and he sent a petition and medical certificate & the case was consequently adjd to 9-2-1918 on which date the Magistrate was on leave. The case was adjd to 1-4-18 & then to 9-4-18, and on this date the Counsel for the accused moved for an adjt, the case being posted to 15-6-1918. During this period Mr Melkite was the presiding Magistrate.

17) He was succeeded by Mr M. Chinnaraja Urs who was not invested with Magisterial powers & this accounts for the adjt from 15-6-18 to 26-10-18. On the latter date 3 Crowns were present, but there was no one to conduct the prosecution. Being a police case it was adjd to 6-12-18 on which date the case was not ready.

18) On 31-12-18 the trial of the case was begun & 2 Crowns were examined. Two more Crowns present but the Magte had to go to Bangalore in connection with the Food Control arrangements, & the case had to be adjd to 6-2-19 on this date 4 Crowns were examined & the case

NOTE—Contn. sheet.

Serial No.

had to be adjd. for the examination of the Accused & the Sub-Asst: Surgeon. on 8-3-19 the Sub-Asst: Surgeon was examined & the Accused was not been served. On the next date, viz: 26-4-19 the Accused was absent & the Defence counsel had sent a letter requesting for an adjt. The Magte recorded his own Reasons & ordered the case to be framed as charge against the accused under S. 332 I.P.C. & adjd. the case to 20-5-19. On this date the accused was absent on account of illness & a medical certificate was produced. On 5-6-19 (next date) the accused did not appear & a non-bailable warrant was ordered to be issued on 4-7-19, 5 prosn witnesses were cross-examined & as the Accused was not present, the case had to be adjd. to 2-8-19 on which date the Accused was fully examined. But as there was none to conduct the prosn. the case was adjd. to 31-8-19. On this date the defence witnesses were examined & the case was posted to 10-9-19 for judgt.

19) The date of the offence was 21-8-1917 & the date of disposal in the lower court was 12-9-19. No doubt the case was pending for 2 yrs: 22 days But this includes a period of 2 months & 18 days taken by the police for investigation for which the magistrates cannot be held responsible.

NOTE—Contn. sheet.

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G. R. S. III-2]

General and Revenue Secretariat. | CS File No. 140 of 1919.

Serial No.	
	Magistrate before whom the Charge sheet was placed was transferred & his successor had not been invested with magisterial powers. Notices were not promptly served on parties, and the complainant and the accused fell ill and were unable to attend the Court for some time. The Police were responsible for 2 adjts & the Counsel for the accused for 2 more & the Food control operations necessitated 1 adjt.
	2) The circumstances of this case seem to be exceptional & no members of causes, over which the Magistrates had no control, contributed towards the delay and the adjournments above referred to seem to have been unavoidable.
	4) The papers may perhaps be deposited after perusal. Submitted for orders. D.M. 11/11/20
3026 12.11.20	III Member
	22) Depn. The papers may be deposited. 13/11
	25) Submitted with a draft letter inviting the Records. Sd/ 20/12/20.
	24) Perused D.M. 17/12

NOTE—Contn. sheet.

No 569
Enc = one

No 9971 (b

1919-19
SECTION Ch
FILE No. 1[illegible]
SERIAL No.

16532

CHIEF COURT OF MYSORE,

Bangalore,

Dated 22nd December 1919.

From

G. Sreenivasa Iyer, Esq, B.A.,M.L.,
Registrar of the Chief Court of Mysore,
Bangalore.

To

C. S. Balasundaram Iyer, Esq., B. A.,
Chief Secretary to the Government of Mysore,
BANGALORE.

Sir,

I am directed to forward herewith for the information of the Government, a copy of judgment in Criminal appeal No: 48 of 1919 - 20 on the file of this Court containing the Judges' observations in the matter of the delay in the disposal of Criminal case No: 34 of 1917 - 18 on the file of the Assistant Commissioner and 1st class Magistrate, Maddagiri Sub Division, by the presiding Magistrates, Messrs M. Gulam Mohadin Mehkri and M. Chennaraja Urs.

I have the honour to be,
Sir,
Your most obedient servant,

G Sreenivasa Iyer
REGISTRAR.

SG

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Friday, the 5th day of December 1919.

P R E S E N T

Mr. Justice K.S. Chandrasekhara Aiyar, Chief Judge,

a n d

Mr. Justice C.S. Doraswami Iyer.

Petition of Criminal Appeal No: 48 of 1919-20 against the conviction and sentence by the Assistant Commissioner and 1st class Magistrate, Maddagiri Sub Division under Section 332 of the Indian Penal Code in Criminal Case No: 34 of 1917 - 18.

Appellant.

Chenna Reddi.

(Accused)

J U D G M E N T.

The evidence in this case is in our opinion quite above suspicion, including as it does, besides the statement of the complainant Shanbhog Nilappa (prosecution 1st witness) the testimony of the taluk Amildar (prosecution 7th witness) and four other witnesses, against whose veracity and disinterestedness nothing whatever has been

elicited.

(12)

clicited. It seems clear from this evidence taken as a whole that there was a passage of words between the appellant and the complainant regarding the conduct of the latter in laying a charge of using Government water against the former and his cousin the patel, and that the appellant who may have resented the shanbhog's persistence in maintaining that the charge was true and the appellant's and the patel's denial false, struck at the shanbhog with the empty tin tube which he was carrying. The defence now put forward, Viz, that the appellant merely warded off the blow which the shanbhog aimed at him with the tin case, has not been made out, and is, besides, quite inconsistent with the explanation put forward by the appellant before the Amildar at the time of the occurrence.

The only point that may admit of some doubt is as to whether the complainant was at the time of the occurrence in the discharge of his duty as a public servant. On the one hand, it cannot be gainsaid that it was in his capacity as the village Shanbhog who had submitted the thakrar - thakhta that he was leading the Amildar to where the unauthorized use of Government water by the patel and the appellant had taken place; on the other hand, if the injury which he sustained was the result of any needless and offensive provocation which he might have given to the appellant, it could not be said that the appellant was at the moment in the actual discharge of his duties as a public servant. The evidence in our opinion does not altogether support the latter hypothesis, and all that the prosecution 2nd and 5th witnesses state is that there was an exchange of abusive language between the two persons in question. In our opinion, the conviction under section 332 Indian Penal Code is correct and the sentence is by no

means excessive. Indeed even if it was a case of an assault on a private person, we should not have interfered with the sentence. Having regard to the fact that the appellant committed the act almost in the presence of the taluk Amildar, we should ourselves have thought that a more deterrent sentence comprising a term of imprisonment might well have been imposed on the appellant; but having regard to the long interval between the offence complained of and the conviction, we do not wish at this stage to interfere with the punishment awarded.

Before concluding we must remark on the great delay that has elapsed between the date of the offence (21st August 1917) and the date of disposal of the case in the court below (12th September 1919). Mr. Mekhri, who was in charge of the court when the charge sheet was filed, was responsible for more than seven months of this delay, while his successor Mr. M. Chennaraja Urs has been responsible for the remaining period. A perusal of the order sheet suggests that the greater portion of this delay could have been avoided if the presiding magistrates had made better arrangements as regards the postings of cases and the disposal of their other work, and had refrained from unnecessary adjournments either on their own initiative or at the request of parties. As it is, we cannot say that a delay of over two years in the disposal of such a simple case is at all creditable to the officers concerned.

(Sd) K.S. Chandrasekhara Aiyar,

C H I E F J U D G E.

(Sd) C.S. Doraswami Iyer,

J U D G E.

'C O P Y'

REGISTRAR.

SG

G. R. S. VI—G/32]

SUBJECT Request to send the records of the Case

Diary No. of letter replied to 9971

GENERAL AND REVENUE SECRETARIAT

( )

, the 191 .

Date of issue 5/2

Signed by

Section

File No. 40-70

Serial No. 2

No. 17979

To

The Registrar, Chief Court of Mipon.

Sir,

With reference to your letter no 569 Cr of 22nd Dec 1919 forwarding a copy of the judgment in Criminal Appeal no 48 of 19-20 on the file of the Chief Court, I am directed to request you to kindly send the records of the Case for reference & return.

I have &c

D. M. 6/2

For Chief Secy

23/1/20

over.

No. 682 Enc. 1 Rcvd.

C.i Scott Cr. R

FEB 1920

2689

14821.

CHIEF COURT OF MYSORE,
Bangalore,
Dated 7th February 1920.

From

G. Sreenivasa Iyer Esq., B.A., M.L.,
Registrar of the Chief Court of Mysore,
Bangalore.

To

C. S. Balasundaram Iyer Esq., B. A.,
Chief Secretary to the Government of Mysore,
BANGALORE.

Sir,

Adverting to your No: G. 1797 / Cts.140 - 19 - 2 dated 5th instant I am directed to forward the record in Criminal Appeal No: 48 of 1919 - 20 on the the file of this Court and to request that the same may be returned when no longer required.

I have the honour to be,
Sir,
Your most obedient servant,

REGISTRAR.

SG

11/3

G. R. S. VI—G/32]

SUBJECT.....

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Diary No. of letter replied to..... 1482 .....

GENERAL AND REVENUE SECRETARIAT

( )

, the *191* .

Date of issue..... 13/3 .....

Signed by.....

Section

File No.

Serial No. 4

No. C 21240

To The Registrar, Chief Court of Mysore

Sir,

With reference to the correspondence ending with your letter No. 682/C.R.-8 forwarding the records of 7/9th Feb'y 1920 Criminal Appeal No. 48 of 1919-20 on the file of the Chief Court, I am directed to request you to kindly send the records of the original case (C. case No. 34 of 1917-18) on the file of the 1st Class Magistrate, Maddagiri Sub-Division for reference & return. I have &c.

Dy. No. 1873

For Chief Secy

A.D.C. 18/2271/2/9/20

No. 827 Encl: Records.

17615/15

CHIEF COURT OF MYSORE.

Bangalore, dated 23rd March 1920.

From

The Registrar of the
Chief Court of Mysore,
Bangalore.

To

The Chief Secretary to the
Government of His Highness
the Maharaja of Mysore,
Bangalore.

Sir,

Adverting to your No. G. 21240/Cts. 140-19-4 dated 13th instant, I am directed to forward the records in Criminal Case No. 34 of 1917-18 on the file of the First Class Magistrate, Maddagere Sub Division as requested in the above and to request that the same may be returned when no longer required.

I have the honour to be,

Sir,

your most obedient servant,

M Srinivasaiengar

For Registrar.

AV.

G. R. S. VI—G/32]

115

SUBJECT.....

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Diary No. of letter replied to.....

General and Revenue Secretariat

( )

, *the* *191* .

Date of issue 27/12/20

Signed by Mr. D. Sr

Section Cts.

File No. 140-C9.

Serial No. 6

No. G/12467/3 file, 7 records.

To

The Registrar, Chief Court.

Sir,

I am directed to return herewith the records in C. C. no. 349/12 & 8 on the file of the Fiscal Magistrate, Maddagama Subdivision, received with your letter no. 827 D 23rd March 1920.

I have etc.

D M

over.

for Registrar.

Ess

Co/12/20.

for 11/12